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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ADVANCED MEDICAL OPTICS, INC.,  
a Delaware corporation,

Plaintiff,

v.

ALCON LABORATORIES, INC.,  
a Delaware corporation, and  
ALCON MANUFACTURING, LTD,  
a Texas Limited Partnership,

Defendants.

C. A. No. 03-1095-KAJ

JURY TRIAL DEMANDED

JOINT PROPOSED FORM OF SPECIAL JURY VERDICT

We, the jury in the above-titled action, find the following special verdict on the questions submitted to us:

**I. INFRINGEMENT**

**A. '240 PATENT**

Question No. 1: Did AMO prove by a preponderance of the evidence that the **AdvanTec Legacy** infringes the following claim of the '240 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, AMO; a "No" answer is a finding for the defendants, Alcon.)

Claim 5 Yes ☒ No ☐

Question No. 2: Did AMO prove by a preponderance of the evidence that the Alcon **Infiniti** infringes the following claims of the '240 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 5 Yes ☒ No ☐

Claim 6 Yes ☒ No ☐

Question No. 3: Did AMO prove by a preponderance of the evidence that Alcon, through sale of the **AdvanTec Legacy**, has induced infringement of the following claims of the '240 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 1 Yes ☒ No ☐

Claim 3 Yes ☒ No ☐

Question No. 4: Did AMO prove by a preponderance of the evidence that Alcon, through sale of the **Infiniti**, has induced infringement of the following claims of the '240 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 1 Yes ☒ No ☐

Claim 3 Yes ☒ No ☐

Question No. 5:

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Question No. 6: Did AMO prove by a preponderance of the evidence that Alcon has contributed to the infringement of the following claims of the '240 patent by making and/or selling packs and handpieces for use with the **Infiniti**? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 5 Yes ☒ No ☐

Claim 6 Yes ☒ No ☐

**B. THE '765 PATENT**

Question No. 7: Did AMO prove by a preponderance of the evidence that Alcon's **Infiniti** infringes the following claim of the '765 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 13 Yes ☒ No ☐

Question No. 8: Did AMO prove by a preponderance of the evidence that Alcon, through sale of the **Infiniti**, has induced infringement of the following claim of the '765 patent? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 19 Yes ☒ No ☐

Question No. 9: Did AMO prove by a preponderance of the evidence that, for the following claims of the '765 patent, Alcon has contributed to the infringement of others by selling the **Infiniti**? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 19 Yes ☒ No ☐

Question No. 10: Did AMO prove by a preponderance of the evidence that Alcon has contributed to the infringement of the following claim of the '765 patent by making and/or selling packs and handpieces for use with the **Infiniti**? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Claim 13 Yes ☒ No ☐

Claim 19 Yes ☒ No ☐

**II. VALIDITY****A. THE '240 PATENT**

Question No. 11: Did Alcon prove by clear and convincing evidence that any of the following claims of the '240 patent, considered as a whole, would have been obvious to a person having ordinary skill in the relevant field at the time the invention was made? (Answer "Yes" or "No." A "Yes" answer is a finding for Alcon on this issue; a "No" is finding for AMO on this issue.)

Claim 1	Yes _____	No <input checked="" type="checkbox"/>
Claim 3	Yes _____	No <input checked="" type="checkbox"/>
Claim 5	Yes _____	No <input checked="" type="checkbox"/>
Claim 6	Yes _____	No <input checked="" type="checkbox"/>

**B. THE '765 PATENT**

Question No. 12: Has Alcon proven by clear and convincing evidence that any of the following claims of the '765 patent are invalid because they are anticipated by a single piece of prior art? (Answer "Yes" or "No." A "Yes" answer is a finding for Alcon; a "No" answer is a finding for AMO.)

Claim 13	Yes _____	No <input checked="" type="checkbox"/>
Claim 19	Yes _____	No <input checked="" type="checkbox"/>

Question No. 13: Did Alcon prove by clear and convincing evidence that the subject matter of any of the following claims of the '765 patent, considered as a whole, would have been obvious to a person having ordinary skill in the pertinent art at the time the claimed invention was made? (Answer "Yes" or "No." A "Yes" answer is a finding for Alcon; a "No" is finding for AMO.)

Claim 13	Yes _____	No <input checked="" type="checkbox"/>
Claim 19	Yes _____	No <input checked="" type="checkbox"/>

Question No. 14: Did Alcon prove by clear and convincing evidence that the inventors of the '765 patent failed to disclose the best mode of practicing the invention disclosed in the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for Alcon; a "No" is finding for AMO.)

Yes \_\_\_\_\_ No ☒

Question No. 15: Did Alcon prove by clear and convincing evidence that claims 13 and 19 of the '765 patent are invalid as indefinite? (A "Yes" answer is a finding for Alcon; a "No" is finding for AMO.)

Yes \_\_\_\_\_ No ✓

### III. DAMAGES

#### A. THE '240 PATENT

If you answered "Yes" to any part of questions 1 through 6, above, and there is at least one corresponding claim (same claim number) to which you answered "No" in question 11, then proceed to the next question, otherwise proceed to question 19.

Question No. 16: Do you find that AMO is entitled to any lost profit damages for any of Alcon's infringing sales? (Answer "Yes" or "No." A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Yes ✓ No \_\_\_\_\_

Question No. 17: If you answered yes to Question 16, what is the total amount of lost profits damages to which AMO is entitled as a result of infringement of the '240 patent?

Answer: \$ 45.7 million

Question No. 18: For all infringing sales by Alcon for which you did not award a lost profit damage in answer to Question 17, what is the total amount of reasonable royalty damages to which AMO is entitled as a result of Alcon's infringement of the '240 patent?

Answer: \$ 42.6 million

#### B. THE '765 PATENT

If you answered "Yes" to any part of questions 7 through 10 above, and there is at least one corresponding claim (same claim number) to which you answered "No" in both questions 12 and 13, then proceed to the next question, unless you also answered no to either questions 14 or 15, in which case proceed to question 20.

Question No. 19: What is the total amount of damages to which plaintiff AMO is entitled as a result of Alcon's infringement of the '765 patent?

Answer: \$ 6.5 million

**XX. WILLFULNESS**

**A. THE '240 PATENT**

Question No. 20: If your answer was "Yes" to any part of questions 1 through 6, has AMO proven, by clear and convincing evidence, that the infringement was willful? (A "Yes" answer is a finding for the AMO; a "No" answer is a finding for the Alcon.)

Yes ☒ No ☐

**B. THE '765 PATENT**

Question No. 21: If your answer was "Yes" to any part of questions 7 through 10, did AMO prove by clear and convincing evidence that the infringement was willful? (A "Yes" answer is a finding for AMO; a "No" answer is a finding for Alcon.)

Yes ☒ No ☐

Dated: May 6, 2005